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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/902,546	07/10/2001	David Braun	043210-1420-00	6891

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EXAMINER

SINGH, ARTI R

ART UNIT PAPER NUMBER

1771

DATE MAILED: 01/31/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/902,546

Applicant(s)

BRAUN, DAVID

Examiner

Ms. Arti R. Singh

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 July 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 July 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4 and 5. 6) ☐ Other: _____

DETAILED ACTION

Specification

1. The disclosure is objected to because of the following informalities: The use of the trademarks/tradenames has been noted in this application. It should be capitalized wherever it appears and be accompanied by the generic terminology.

Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner, which might adversely affect their validity as trademarks. Appropriate correction is required.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bay et al. (USPN 6,263,510 B1). Bay et al. are concerned with the fabrication of a ventilation garment generally used by motorcycle jackets and the like (column 1, lines 5-15). In the preferred embodiment as seen in column 2, lines 47 onwards, the invention includes an outer shell, a mid-liner and may optionally have an additional insulating liner. The shell and mid-liner are sewn together at the lower end of garment. In order to provide better ventilation, the lower end of mid-liner is attached to a mesh material, by sewn stitching or the like. Mesh material is generally non-stretchable and has oval shaped

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openings with about a 3/32-inch diameter. Shell is preferably made of a predominately waterproof material such as 600 denier, woven polyester, but may alternately be Taslen brand Nylon, thereby meeting the limitation of Applicant's claim 3. The mid-liner is preferably made of a lightweight material such as a polyurethane coated Nylon fabric, thus meeting the limitation of Applicant's claim 4. Outer shell is made of a heavier weight and denser material than mid-liner. Insulating liner is removably attached from shell by snaps, hook and loop strips, and zipper attachments. Insulating layer is attached closest to the user's body, internal to mid-liner. In column 4, lines 53-55, it is shown that a zipper type closure is sewn to the fabric edges of the shell, along with various other places on the jacket. In column 1, lines 40-45 patentee discusses the coupling of the layers so that they coordinate with one another, thereby both the outer shell and inner liner layers are thus substantially aligned. Therefore, patentee teaches an article of clothing comprising an outer nylon or polyester layer (if nylon then it inherently is not waterproof) having an outer opening, an inner PU coated nylon fabric (which is inherently waterproof). The two layers are coordinated so that they overlay one another so that airflow may be permitted through the mesh, and thus through jacket. The only limitation not taught by patentee, is that of the zipper being waterproof or water-resistant. A person having ordinary skill in the art would have found it obvious at the time the invention was made to employed a waterproof zipper in place of the generic zipper used by Bay et al., motivated by the desire to provide a garment employing a zipper that will not rust.

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4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ms. Arti R. Singh whose telephone number is 703-305-0291.

The examiner can normally be reached on M-F 7:00am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 703-308-2414. The fax phone numbers for the organization where this application or proceeding is assigned are 703-873-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.



Ms. Arti R. Singh
Patent Examiner
Art Unit 1771

ars
January 27, 2003